



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,057	12/02/2003	Stephanie K. Schneider	29939/38936A	2630
4743	7590	05/24/2005	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			VALENTI, ANDREA M	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/726,057	Applicant(s) SCHNEIDER ET AL.	
	Examiner Andrea M. Valenti	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.  
2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 8-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 8-21 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8, 9, 11-13, and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by SAFARI by Coastal: "Bristle Brush Package" 1997, Coastal, Alliance, Ohio, US XP002277714; 1 page.

Regarding Claim 8, SAFARI teaches a package having information relating to pet brushing criteria, comprising: a body having a front side, a rear side, a top and a bottom (See attached XP-002277714); a first display on the body corresponding to at least one example of a pet coat type (SAFARI picture of Beagle) and a second display on the body naming the pet coat type (SAFARI "Suggested Breeds"); an identifier on the body different from the first and second displays the identifier being specific to identify the pet coat type (SAFARI code W6144B Small or "For fine to coarse coats"); and a pet grooming tool (SAFARI brush W6144B) carried by the package and being configured for grooming the pet coat type of the first display.

Regarding Claim 9, SAFARI teaches the package having a third display on the body providing instructions on how to use the pet-grooming tool (SAFARI "Directions").

Regarding Claim 11, SAFARI teaches the first display of a pet coat type is a photograph of a pet with that pet coat type (SAFARI picture of Beagle).

Art Unit: 3643

Regarding Claim 12, SAFARI teaches the first display of a pet coat type is disposed on the front side of the body (SAFARI attached XP-002277714).

Regarding Claim 13, SAFARI teaches the second display of a pet coat type is a name of a breed having that pet coat type (SAFARI "Suggested Breeds").

Regarding Claim 15, SAFARI teaches the identifier that corresponds to the pet coat type of the first display is disposed on the front side of the body (SAFARI "For fine to coarse coats").

Regarding Claim 16, SAFARI teaches the top of the body includes an aperture for hanging the package on a display rack (SAFARI attached XP-002277714).

Regarding Claim 17, SAFARI teaches the pet grooming tool is carried on the front side of the body (SAFARI attached XP-002277714).

Claims 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by SAFARI by Coastal: "Bristle Brush Package" 1997, Coastal, Alliance, Ohio, US XP002277714; 1 page and SAFARI Pet Products: "Dog Brochure" 1997, SAFARI Pet Products XP002277715; 4 pages.

Regarding Claim 18, SAFARI XP002277714 teaches a system for selecting a pet grooming tool and provides an example of one package. SAFARI XP002277715 teaches a plurality of brushes on the market for a plurality of different coat types and that each package has a first display on the body corresponding to at least one example of a pet coat type (SAFARI picture of Beagle) and a second display on the body naming the pet coat type (SAFARI "Suggested Breeds"); an identifier on the body different from

Art Unit: 3643

the first and second displays the identifier being specific to identify the pet coat type (SAFARI code W6144B Small or "For fine to coarse coats"); a plurality of different pet grooming tools (SAFARI photograph page 3 and 4), at least one grooming tool being carried by each of the plurality of packages and configured for use in grooming the associated pet coat type of its respective package (SAFARI attached XP002277715 first page left side). It would have been obvious to one of ordinary skill in the art to modify the package of SAFARI XP002277714 with the system of SAFARI photograph 3 and 4 to meet the needs of the consumer and as a mass marketing strategy to provide one stop shopping for owners of more than one animal breed. The modification is merely the duplication of a known packaging system for multiple brush styles for a multiple effect.

Regarding Claim 19, SAFARI XP002277714 teaches instructions disposed on each of the plurality of packages for instructing how to use the grooming tool carried by each respective package (SAFARI XP002277714 "Directions").

Regarding Claim 20, SAFARI XP002277714 teaches the first display includes at least one photograph of a pet with that pet coat type (SAFARI XP002277714 "beagle" picture).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over SAFARI by Coastal: "Bristle Brush Package" 1997, Coastal, Alliance, Ohio, US XP002277714; 1 page and SAFARI Pet Products: "Dog Brochure" 1997, SAFARI Pet Products XP002277715; 4 pages in view of Photographs of "SAFARI Pet Grooming Tools Display Rack" Rijswijk (NL) 8 photographs, copyright dates of 1997 and 1977.

Regarding Claim 21, SAFARI XP002277714 and XP002277715 are silent on a display rack supporting the plurality of packages, and a chart mounted in at least close proximity to the display rack and illustrating a relationship between each of the plurality of different grooming tools and each one or more related ones of the plurality of pet coat types. However, XP002277714 as modified teaches the "SAFARI Pet Grooming Tools Display Rack" teaches a rack with a plurality of packages and a chart. It would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely the selection of and old and notoriously well-known means of consumer display for enhanced consumer appeal.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over SAFARI by Coastal: "Bristle Brush Package" 1997, Coastal, Alliance, Ohio, US XP002277714; 1 page in view of Photographs of "SAFARI Pet Grooming Tools Display Rack" Rijswijk (NL) 8 photographs, copyright dates of 1997 and 1977.

Regarding Claim 10, SAFARI SP002277714 is silent on a third display on the body identifying other pet grooming tools suitable for use with the pet coat type of the

Art Unit: 3643

first display. However, "SAFARI Pet Grooming Tools Display Rack" teaches that providing information on other pet grooming tools is an old and notoriously well-known procedure. It would have been obvious to one of ordinary skill in the art to modify the package of XP002277714 since the modification is merely the addition of additional known information to enable the consumer to make an informative decisions on product selection.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over SAFARI by Coastal: "Bristle Brush Package" 1997, Coastal, Alliance, Ohio, US XP002277714; 1 page in view of U.S. Patent No. 4,343,265 to Belschner.

Regarding Claim 14, SAFARI teaches the identifiers, but is silent on a color that corresponds to the pet coat type of the first display. However, Belshner teaches the brush has a color specifically representing the type of pet coat (Belshner Col. 3 line 45-49). It would have been obvious to one of ordinary skill in the art to modify the teachings of SAFARI with the teachings of Belschner for the added aesthetic appeal to increase consumer marketability.

### ***Response to Arguments***

Applicant's arguments filed 03 March 2005 have been fully considered but they are not persuasive.

Examiner maintains that the cited prior art discussed above does in fact teach each and every limitation claimed by applicant as outlined in the preceding paragraphs. Thus, examiner maintains that applicant has not patentably distinguished over the teachings of the cited prior art. The SAFARI displays do in fact teach a first display, a

second display, and an identifier. SAFARI teaches that it is old and notoriously well-known to provide the consumer with guidance information based on the animal breed, the coat type, and the recommended brush style so the consumer can make an informed decision. Merely adding four or five more different categories or identifiers would merely be a duplication of a known element for a multiple effect and would not be a patentable distinction. Examiner maintains that SAFARI XP002277715 teaches a plurality of packages with first and second displays and an identifier for a plurality of grooming tools for a plurality of breed types.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.




Art Unit: 3643

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti  
Patent Examiner  
Art Unit 3643

20 May 2005



Peter M. Poon  
Supervisory Patent Examiner  
Technology Center 3600